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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/558,356	04/26/2000	Stephen Dale Messer	1776-001B	9673
9629	7590	01/07/2005	EXAMINER	
MORGAN LEWIS & BOCKIUS LLP 1111 PENNSYLVANIA AVENUE NW WASHINGTON, DC 20004			ELISCA, PIERRE E	
			ART UNIT	PAPER NUMBER
			3621	

DATE MAILED: 01/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/558,356

Applicant(s)

MESSER, STEPHEN DALE

Examiner

Pierre E. Elisca

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 October 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 6-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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### DETAILED ACTION

1. Regarding the status of the claims in the instant application, the Examiner has made an updated search and found new prior art. The Examiner is obliged to apply the newly found prior art. The Examiner regrets the delayed process of the application. Accordingly, claims 6-10 remain pending in the application.

### CLAIM REJECTION 35 USC 103 (a)

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 6-10 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Levergood et al. (U.S. Pat. No. 5,708,780) in view of Lemon et al. (U.S. Pat. No. 4,674,041).

As per claims 6-10 Levergood substantially discloses a method/system for controlling and monitoring access to network servers see., abstract which is equivalent to Applicant's claimed invention wherein it is stated that a data processing for supporting web based commerce and commission tracking on a multi-node network), comprising:

One or more content providers with web pages wherein said web pages include linking instructions associated with select promotions a plurality of web pages within the multi-node network, wherein each of the plurality of web pages displays at least one on-line

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content (see., col 1, lines 50-67, col 2, lines 1-55, specifically wherein said company may want to provide highly specific service tips over its internet server only to customers having service contracts or accounts, and also col 3, lines 56-67, col 4, lines 1-31, col 2, lines 56-67, figs 1 and 2A);

Merchant sites interconnected to said network and available for providing goods and/or services to users referred to said merchant site by said linking instructions (see., Levergood in the abstract, specifically wherein it is stated that the hypertext environment, a client views a document transmitted by a content server with a standard program known as the browser. Each hypertext document or page contains links to other hypertext pages which the user may select to. A user is provided with a session identification which allows the user to access to the requested file or page. see., col 5, lines 17-41, col 7, lines 22-48. Levergood further discloses a plurality of client/servers which can also be a clearinghouse server or merchant sites and the step of displaying promotions is disclosed in col 5, lines 17-41.

It is to be noted that Levergood fails to explicitly disclose wherein said clearinghouse comprising programming for detecting fraudulent activity relating to said promotions and tracking users promotions. However, Lemon discloses a method/apparatus for monitoring and controlling the distribution of coupons or promotions. A report 4 includes the number of coupons or promotions dispensed, the store identification information, the dataes and times of distribution, and customer identification data. This information is valuable to the manufacturer both as an aid in analyzing its marketing technique and in detecting fraudulent coupon distribution (see., abstract, col 3, lines 39-54). Therefore, it

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would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the internet server of Levergood by including the limitation detailed above as taught by Lemon because this would control the number of coupons or promotions issued an/or redeemed.

### ***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre E. Elisca whose telephone number is 703 305-3987. The examiner can normally be reached on 6:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 703 305-9769. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Pierre Eddy Elisca

**Primary Patent Examiner**

**January 05, 2005**